



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB898]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Offshore of New Jersey

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments on proposed Renewal incidental harassment authorization (IHA).

SUMMARY: NMFS received a request from Ocean Wind LLC (Ocean Wind) for the Renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to marine site characterization survey activities off the coast of New Jersey in the areas of the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS)-A 0498 (Lease Area) and federal and state waters along potential export cable routes (ECRs) to landfall locations between Raritan Bay (part of the New York Bight) and Delaware Bay. These activities are identical to those covered in the current authorization, which expires on May 9, 2022. Pursuant to the Marine Mammal Protection Act, prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The Renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed Renewal not previously provided during the initial 30-day comment period.

DATES: Comments and information must be received no later than [*insert date 15 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be submitted via email to *ITP.Harlacher@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period.

Comments, including all attachments, must not exceed a 25-megabyte file size.

Attachments to comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *<https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>* without change. All personal identifying information (*e.g.*, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Jenna Harlacher, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at:

<https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The Marine Mammal Protection Act (MMPA) prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, an incidental harassment authorization is issued.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization (86 FR 17783; April 06, 2021), NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those circumstances. Specifically, on a case-by-case basis, NMFS may issue a one-time one-year Renewal IHA following notice to the public

providing an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the **Description of the Specified Activities and Anticipated Impacts** section of this notice would not be completed by the time the initial IHA expires and a Renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

1. A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA).
2. The request for renewal must include the following:
 - An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take).
 - A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.
3. Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is

provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at:

www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals. Any comments received on the potential Renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA Renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested Renewal, and agency responses will be summarized in the final notice of our decision.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA Renewal qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA Renewal request.

History of Request

On May 10, 2021, NMFS issued an IHA to Ocean Wind to take marine mammals incidental to marine site characterization survey activities off the coast of New Jersey in the areas of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS-A 0498) and along potential submarine cable routes to landfall locations in New Jersey (86 FR 6465), effective from May 10, 2021 through May 09, 2022. On February 18, 2022, NMFS received an application for the Renewal of that initial IHA. As described in the application for Renewal IHA, the activities for which incidental take is requested are identical to those covered in the initial authorization. As required, the applicant also provided a preliminary monitoring report (available at www.fisheries.noaa.gov/action/incidental-take-authorization-ocean-wind-llc-marine-site-characterization-surveys-new-jersey) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

Description of the Specified Activities and Anticipated Impacts

Ocean Wind proposes to conduct a second year of high-resolution geophysical (HRG) marine site characterization surveys in the Lease Area and along potential ECRs to landfall locations in New Jersey, between Raritan Bay (part of the New York Bight) and Delaware Bay. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the original IHA. The purpose of the marine site characterization surveys are to obtain an assessment of seabed (geophysical, geotechnical, and geohazard), ecological, and archeological conditions within the footprint of a planned offshore wind facility development. Surveys are also conducted to support engineering design and to map unexploded ordnance. Underwater sound resulting from Ocean Wind's site characterization survey activities, specifically

HRG surveys, has the potential to result in incidental take of marine mammals in the form of Level B harassment.

In their 2020 IHA application, Ocean Wind estimated it would conduct surveys at a rate of 70 kilometers (km) per survey day. Ocean Wind defined a survey day as a 24-hour activity day. Based on the planned 24-hours operations, the number of estimated survey days varies between the Lease Area and ECR area, with 142 vessel survey days expected in the Lease Area and 133 vessel survey days in the ECR area, with a total of 275 survey days. A maximum of 2 vessels would operate concurrently in areas where 24-hr operations would be conducted, with an additional third vessel potentially conducting daylight-only survey effort in shallow-water areas. The Renewal IHA would authorize harassment of marine mammals for a second year of identical survey activities to be completed in one year, in the same area, using survey methods identical to those described in the initial IHA application; therefore, the anticipated impacts on marine mammals and the affected stocks also remain the same.

Accordingly, the amount of take requested for the Renewal IHA is also identical to that authorized in the initial IHA. All active acoustic sources and mitigation and monitoring measures would remain exactly as described in the **Federal Register** notices of the initial proposed IHA (86 FR 17783; April 06, 2021) and issued initial final IHA (86 FR 26465; May 14, 2021).

The following documents are referenced in this notice and include important supporting information:

- Initial final IHA (86 FR 26465; May 14, 2021);
- Initial proposed IHA (86 FR 17783; April 06, 2021); and
- 2021 IHA application, references cited, and previous public comments

received (available at www.fisheries.noaa.gov/action/incidental-take-authorization-ocean-wind-llc-marine-site-characterization-surveys-new-jersey).

Detailed Description of the Activity

A detailed description of the marine site characterization survey activities for which incidental take is proposed here may be found in the **Federal Register** notice of the proposed IHA (86 FR 17783; April 06, 2021) for the initial authorization. Ocean Wind plans to complete the survey activities analyzed in the initial IHA by the date the IHA expires (May 09, 2022). The surveys Ocean Wind proposes to conduct under this renewal would be a second year of identical surveys in the same area. The general location and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices. The proposed Renewal IHA would be effective from the date of issuance to May 09, 2023 (one year from the expiration of the initial IHA).

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the **Federal Register** notice of the proposed IHA for the initial authorization (86 FR 17783; April 06, 2021). NMFS has reviewed the preliminary monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature. Newly available information is described below.

The draft 2021 Stock Assessment Reports (SARs, available online at:

www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports) provide updated information for several stocks. Estimated abundance has increased for the U.S. population of gray seals (from 27,131 (CV = 0.19) to 27,300 (CV = 0.22)). Abundance estimates have decreased for Risso's dolphins (from 35,493 (CV = 0.19) to 35,215 (CV = 0.19)) and harbor seals (from 75,834 (CV = 0.15) to 61,336 (CV = 0.08)). Abundance estimates for North Atlantic right whales have also

been updated in the draft 2021 SAR, which states that right whale abundance has decreased from 412 to 368 (95% CI 356-378) individuals (Hayes *et al.*, 2021).

Roberts *et al.* (2021) provided updated modeling methodology (statistical methods for characterizing model uncertainty) with updated monthly densities of North Atlantic right whales since the time of the initial IHA. This model also incorporated additional data from spring 2019 which added transect and sighting data. The new model results slightly increased density estimates for North Atlantic right whales in southern New England, but these results do not meaningfully impact the information supporting exposure estimation in the survey area here.

NMFS has preliminarily determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information contained in the supporting documents for the initial IHA.

Potential Effects on Marine Mammals and their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which the authorization of take is proposed here may be found in the **Federal Register** notice for the proposed initial IHA (86 FR 17783; April 06, 2021). NMFS has reviewed the preliminary monitoring data from the ongoing survey work under the initial, currently active, IHA, recent draft Stock Assessment Reports, updates to the NARW density model (Roberts *et al.*, 2021), information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notices of the proposed (86 FR 17783; April 06, 2021) and final (86 FR 26465; May 14, 2021) initial IHAs. The acoustic source types, as well

as source levels applicable to this renewal authorization, methods of take, and methodology of estimating take remain unchanged from the initial IHA. Accordingly, the stocks taken, type of take (*i.e.*, Level B harassment only), and amount of take remain unchanged from what was previously authorized in the previously issued IHA. The amount of take proposed for authorization in this renewal is indicated below in Table 1.

Table 1. Take Proposed for Authorization and Proportion of Population Potentially Affected.

	Species	Abundance Estimate ¹	Takes by Level B Harassment	% Population
North Atlantic right whale	<i>Eubalaena glacialis</i>	368	9	2.44%
Humpback whale	<i>Megaptera novaeangliae</i>	1,396	2	0.14%
Fin whale	<i>Balaenoptera physalus</i>	6,802	6	0.09%
Sei whale	<i>Balaenoptera borealis</i>	6,292	1	0.02%
Minke whale	<i>Balaenoptera acutorostrata</i>	21,968	2	0.01%
Sperm whale	<i>Physeter macrocephalus</i>	4,349	3	0.07%
Long-finned pilot whale	<i>Globicephala melas</i>	39,215	2	0.01%
Common bottlenose dolphin (offshore)	<i>Tursiops truncatus</i>	62,851	262	0.42%
Common bottlenose dolphin (migratory)	<i>Tursiops truncatus</i>	6,639	1,410	21.24%
Short-finned pilot whale	<i>Globicephala macrorhynchus</i>	28,924	2	0.01%
Atlantic white-sided dolphin	<i>Lagenorhynchus acutus</i>	93,233	16	0.02%
Atlantic spotted dolphin	<i>Stenella frontalis</i>	39,921	3	0.01%
Risso's dolphin	<i>Stenella frontalis</i>	35,215	30	0.09%
Common dolphin	<i>Delphinus delphis</i>	172,974	124	0.07%
Harbor porpoise	<i>Phocoena phocoena</i>	95,543	91	0.10%
Harbor seal	<i>Phoca vitulina</i>	61,336	11	0.02%
Gray seal	<i>Halichoerus grypus</i>	451,431	11	0.00%

W.N.A. = Western North Atlantic.

¹ Abundance estimates have been updated from the initial IHA (86 FR 26465; May 14, 2021) using the 2021 Draft SARs (Hayes *et al.*, 2021).

Description of Proposed Mitigation, Monitoring and Reporting Measures

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA (86 FR 26465; May 14, 2021), and the discussion of the least practicable adverse impact included in that document remains applicable. All mitigation, monitoring and reporting measures in the initial IHA are

carried over to this proposed Renewal IHA and summarized below.

- *Exclusion Zones (EZ)*: Marine mammal EZs would be established around the HRG survey equipment and monitored by PSOs during marine site characterization surveys as follows: A 500-m EZ for North Atlantic right whales during use of all acoustic sources, and a 100-m EZ for all other marine mammals during use of impulsive acoustic sources (*e.g.*, boomers and/or sparkers).
- *Ramp-up*: a ramp-up procedure would be used for HRG equipment capable of adjusting energy levels at the start or re-start of survey activities.
- *Shutdown of HRG Equipment*: If an HRG source is active and a marine mammal is observed within or entering a relevant EZ (as described above), an immediate shutdown of the HRG survey equipment would be required. If a species for which authorization has not been granted, or, a species for which authorization has been granted but the authorized number of takes have been met, approaches or is observed within the Level B harassment zone (48 m, non-impulsive; 141 m impulsive), shutdown would occur.
- *Vessel strike avoidance measures*: Vessel strike measures include, but are not limited to, separation distances for large whales (500 m North Atlantic right whales, 100 m other large whales; 50 m other cetaceans and pinnipeds), restricted vessel speeds, and operational maneuvers.
- *Protected Species Observers (PSOs)*: A minimum of one NMFS-approved PSO would be on duty and conducting visual observations at all times during daylight hours (*i.e.*, from 30 minutes prior to sunrise through 30 minutes following sunset) and two active duty PSOs will be on watch during all nighttime operations.
- *Reporting*: Ocean Wind would submit a final technical report within 90 days following completion of the surveys. In the event that Ocean Wind personnel

discover an injured or dead marine mammal, Ocean Wind shall report the incident to the Office of Protected Resources (OPR), NMFS and to the New England/Mid-Atlantic Regional Stranding Coordinator through the NOAA Fisheries Marine Mammal and Sea Turtle Stranding and Entanglement Hotline as soon as feasible. In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, Ocean Wind shall report the incident immediately to OPR, NMFS and to the New England/Mid-Atlantic Regional Stranding Coordinator through the NOAA Fisheries Marine Mammal and Sea Turtle Stranding and Entanglement Hotline.

Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (86 FR 17783; April 06, 2021) and solicited public comments on both our proposal to issue the initial IHA for marine site characterization surveys and on the potential for a Renewal IHA, should certain requirements be met.

During the 30-day comment period, NMFS did not receive any substantive public comments on the proposed IHA (86 FR 17783; April 06, 2021). However, NMFS was later notified that a group of environmental non-governmental organizations (ENGOS) had submitted a comment letter during the comment period for the proposed initial IHA. NMFS did not receive that letter prior to issuance of the initial IHA due to an email quarantine issue. Below, we describe how we have addressed, with updated information where appropriate, any comments contained in that letter that specifically pertain to the Renewal of the 2021 IHA.

Comment: The commenters objected to NMFS' process to consider extending any 1-year IHA with a truncated 15-day comment period as contrary to the MMPA.

Response: NMFS' IHA Renewal process meets all statutory requirements. All IHAs issued, whether an initial IHA or a Renewal IHA, are valid for a period of not

more than 1 year. And the public has at least 30 days to comment on all proposed IHAs, with a cumulative total of 45 days for IHA Renewals. As noted above, the Request for Public Comments section in the initial IHA made clear that the agency was seeking comment on both the initial proposed IHA and the potential issuance of a Renewal for this project. Because any Renewal (as explained in the Request for Public Comments section in the initial IHA) is limited to another year of identical or nearly identical activities in the same location (as described in the Description of Proposed Activity section in the initial IHA) or the same activities that were not completed within the one-year period of the initial IHA, reviewers have the information needed to effectively comment on both the immediate proposed IHA and a possible 1-year Renewal, should the IHA holder choose to request one.

While there are additional documents submitted with a Renewal request, for a qualifying Renewal these are limited to documentation that NMFS will make available and use to verify that the activities are identical to those in the initial IHA, are nearly identical such that the changes would have either no effect on impacts to marine mammals or decrease those impacts, or are a subset of activities already analyzed and authorized but not completed under the initial IHA. NMFS will also confirm, among other things, that the activities will occur in the same location; involve the same species and stocks; provide for continuation of the same mitigation, monitoring, and reporting requirements; and that no new information has been received that would alter the prior analysis. The renewal request also contains a preliminary monitoring report, but that is to verify that effects from the activities do not indicate impacts of a scale or nature not previously analyzed. The additional 15-day public comment period provides the public an opportunity to review these few documents, provide any additional pertinent information and comment on whether they think the criteria for a renewal have been met. NMFS also will provide direct notice of the proposed Renewal to those who

commented on the initial IHA, to provide an opportunity to submit any additional comments. Between the initial 30-day comment period on these same activities and the additional 15 days, the total comment period for a renewal is 45 days.

In addition to the IHA Renewal process being consistent with all requirements under section 101(a)(5)(D), it is also consistent with Congress's intent for issuance of IHAs to the extent reflected in statements in the legislative history of the MMPA. Through the provision for Renewals in the regulations, description of the process and express invitation to comment on specific potential Renewals in the Request for Public Comments section of each proposed IHA, the description of the process on NMFS' website, further elaboration on the process through responses to comments such as these, posting of substantive documents on the agency's website, and provision of 30 or 45 days for public review and comment on all proposed initial IHAs and Renewals respectively, NMFS has ensured that the public “is invited and encouraged to participate fully in the agency decision-making process.”

For more information, NMFS has published a description of the Renewal process on our website (available at www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals).

Preliminary Determinations

The survey activities proposed by Ocean Wind are identical to those analyzed in the initial IHA, including the planned number of days and general location of activity (i.e., OCS-A 0498 and OCS-A 0532), as are the method of taking and the effects of the action. Therefore, the amount of take proposed for authorization is unchanged from that authorized in the initial IHA. The potential effects of Ocean Wind's activities remain limited to Level B harassment in the form of behavioral disturbance. No serious injury or mortality of marine mammal is anticipated. In analyzing the effects of the activities in the initial IHA, NMFS determined that Ocean Wind's activities would have a negligible

impact on the affected species or stocks and that the authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.*, less than one-third of the abundance of all stocks). The proposed mitigation measures and monitoring and reporting requirements as described above are identical to the initial IHA.

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has preliminarily determined the following: (1) the proposed mitigation measures will affect the least practicable impact on marine mammal species or stocks and their habitat; (2) the proposed authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the proposed authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Ocean Wind activities would not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are proposed for inclusion.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources is proposing to authorize the incidental take of four species of marine mammals that are listed under the ESA: the North Atlantic right, fin, sei and sperm whales. We requested initiation of consultation

under Section 7 of the ESA with NMFS GARFO on February 04, 2021, for the issuance of the initial IHA. NMFS GARFO determined that issuance of the IHA to Ocean Wind is not likely to adversely affect the North Atlantic right, fin, sei, and sperm whale or the critical habitat of any ESA-listed species or result in the take of any marine mammals in violation of the ESA, and at this time considered the potential for a renewal. The proposed Renewal IHA provides no new information about the effects of the action, nor does it change the extent of effects of the action, or any other basis to require re-initiation of the Opinion; therefore, the incidental take statement issued for the initial IHA remains valid.

Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a Renewal IHA to Ocean Wind for conducting marine site characterization surveys offshore of New Jersey and along potential submarine cable routes to a landfall location in New Jersey, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act. We request comment on our analyses, the proposed Renewal IHA, and any other aspect of this Notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: April 6, 2022.

Angela Somma,
Acting Director, Office of Protected Resources,
National Marine Fisheries Service.